

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 15, 2011

In the Matter of R. R. R. HUGGARD, Minor.

No. 298946
Isabella Circuit Court
Family Division
LC No. 2009-000187-NA

Before: MARKEY, P.J., and FITZGERALD and BORRELLO, JJ.

PER CURIAM.

Following an eight-day adjudication trial in this child protective proceeding, a jury concluded that petitioner, the Department of Human Services (DHS), had proven by a preponderance of the evidence the existence of a statutory ground in MCL 712A.2(b) for the court to exercise jurisdiction over the minor child. Respondents, the child's parents, appeal that decision as of right. On August 6, 2010, an order was entered dismissing the matter in its entirety. Accordingly, for the reasons set forth in this opinion, we dismiss this appeal as moot.

This matter arose when the DHS petitioned the circuit court to take temporary custody of the child in November 2009, and the circuit court removed the child from respondents' custody in late November 2009. In April 2010, following an adjudication trial, the court entered an order exercising jurisdiction over the child in accordance with a jury's verdict. A May 2010 dispositional order reflects that the court approved the child's return to respondents' home, under DHS supervision. On August 6, 2010, the parties and the circuit court entered the following stipulation and order:

NOW COMES Mark Kowalczyk, Principal Trial Attorney for the County of Isabella, on behalf of the Michigan Department of Human Services, Gordon Bloem, Guardian Ad Litem, Tony Moses, Attorney for Respondent Father . . . , and Michael J. Cronkright, Attorney for Respondent Mother, and hereby *stipulate and agree that jurisdiction in this matter be dismissed* at the request of the Department of Human Services for the reason that the parents have complied with the case service plan, the child was previously returned/placed with the parents, and the child is no longer at substantial risk of harm.

* * *

The Court having read the above Stipulation and being otherwise fully advised . . . :

IT IS HEREBY ORDERED that *jurisdiction in this matter is dismissed*.
[Emphasis added.]

On appeal, respondents challenge the sufficiency of the evidence supporting the jury's adjudication verdict and the circuit court's admission of expert testimony at the adjudication trial. "[B]ecause reviewing a moot question would be a purposeless proceeding, appellate courts will sua sponte refuse to hear cases that they do not have the power to decide, including cases that are moot." *People v Richmond*, 486 Mich 29, 35; 782 NW2d 187 (2010) (internal quotation and citation omitted), amended 486 Mich 1041 (2010). "Whether a case is moot is a threshold issue that a court addresses before it reaches the substantive issues of the case itself." *Id.*

We conclude that the circuit court's dismissal of its jurisdiction over respondents' child renders this appeal moot. "It is "universally understood . . . that a moot case is one which seeks to get a judgment on a pretended controversy, when in reality there is none, . . . or a judgment upon some matter which, when rendered, for any reason, cannot have any practical legal effect upon a then existing controversy."" *Richmond*, 486 Mich at 34-35, quoting *Anway v Grand Rapids R Co*, 211 Mich 592, 610; 179 NW 350 (1920), quoting *Ex parte Steele*, 162 F 694, 701 (ND Ala, 1908). "Accordingly, a case is moot when it presents nothing but abstract questions of law which do not rest upon existing facts or rights." *Richmond*, 486 Mich at 35 (internal quotation and citation omitted). "The principal duty of this Court is to decide actual cases and controversies. To that end, this Court does not reach moot questions or declare principles or rules of law that have no practical legal effect in the case before us unless the issue is one of public significance that is likely to recur, yet evade judicial review." *Federated Publications, Inc v City of Lansing*, 467 Mich 98, 112; 649 NW2d 383 (2002), clarified on other grounds in *Herald Co, Inc v Eastern Mich Univ Bd of Regents*, 475 Mich 463, 471-472; 719 NW2d 19 (2006). Nothing in this appeal raises any issue or issues that would continue to affect respondents in some collateral way. See, *People v Cathey*, 261 Mich App 506, 510; 681 NW2d 661 (2004), citing *In re Dodge Estate*, 162 Mich App 573, 583-584; 413 NW2d 449 (1987), and *Swinehart v Secretary of State*, 27 Mich App 318, 320; 183 NW2d 397 (1970).

Dismissed as moot. No costs are awarded. MCR 7.219.

/s/ Jane E. Markey
/s/ E. Thomas Fitzgerald
/s/ Stephen L. Borrello